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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BANC OF AMERICA PRACTICE
SOLUTIONS, INC., as servicer for BANK OF
AMERICA, successor by merger and acquisition
to MBNA AMERICA (DELAWARE), N.A.,
assignee of Sky Bank, and as agent for U.S. Bank
Trust National Association,

Plaintiff,

v.

WEST 86TH STREET DENTISTRY, PC AND
NKEMJIKA S. OBIECHINA, DMD,

Defendants.

: Civil Action No. 1:07-cv-04752-LTS

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**AFFIDAVIT OF
JOSEPH H. LEMKIN
IN SUPPORT OF APPLICATION FOR
A CERTIFICATE OF DEFAULT,
PURSUANT TO FED. R. CIV. P. 55(a)
AND LOCAL R. CIV. P. 55.1**

JOSEPH H. LEMKIN, ESQ., being duly sworn, deposes and says:

1. I am an attorney-at-law of the States of New Jersey and New York and Special
Counsel with the law firm of Duane Morris LLP, counsel for the Plaintiff, Banc of America
Practice Solutions, Inc. ("BOA" or "Plaintiff"), in the above-captioned matter. I am fully
familiar with the facts and circumstances of this action. I submit this Affidavit in support of
Plaintiff's Application for a Certificate of Default, pursuant to Fed. R. Civ. P. 55(a) and Local R.
Civ. P. 55.1.

2. Defendants West 86th Street Dentistry, PC and Nkemjika S. Obiechina, DMD (collectively "Defendants") are not infants, in the military, or incompetent persons. Indeed, Dr. Obiechina is a dentist who recently operated a dental practice in New York City. Dr. Obiechina resides in Englewood, New Jersey.

3. On June 4, 2007, Plaintiff filed its Complaint in the above-captioned matter against Defendants.

4. On June 19, 2007, Plaintiff filed its Order to Show Cause why an Order of Seizure should not be issued pursuant to CPLR 7102, made applicable by Rule 64 of the Federal Rules of Civil Procedure.

5. On June 26, 2007, Plaintiff properly served its Summons, Complaint, and Order to Show Cause on Defendants via Guaranteed Subpoena Service, Inc.

6. By letter dated July 9, 2007, Plaintiff informed the Court that the parties were finalizing settlement discussion and intended to file a stipulation with the Court. Plaintiff requested that the hearing with regard to the Order to Show Cause, scheduled for July 9, 2007, be adjourned to September 21, 2007.

7. On July 9, 2007, the Court granted the adjournment request, carrying the hearing to September 19, 2007.

8. On July 13, 2007, Plaintiff properly served a copy of the adjournment request granted by the Court on Defendants via FedEx overnight mail and first class mail.

9. By letter dated July 31, 2007, Plaintiff informed the Court that (1) the Defendants had executed a forbearance agreement dated July 11, 2007, which required an initial payment to be made by or before July 24, 2007; (2) on July 18, 2007, Plaintiff forwarded the Defendants a stipulation of settlement and dismissal for execution; and (3) as of July 31, 2007, Plaintiff had

not received the required July 24, 2007 payment or the signed stipulation. Therefore, Plaintiff requested that the hearing date on the Order to Show Cause be moved up.

10. On August 21, 2007, the Court granted the carrying of the hearing regarding the Order to Show cause from July 9, 2007 to September 21, 2007.

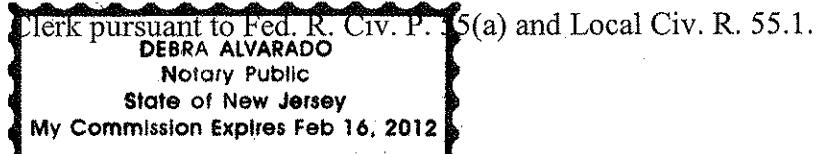
11. On August 28, 2007, Plaintiff properly served a copy of the adjournment request granted by the Court on Defendants via first class mail.

12. Defendants failed to oppose and failed to appear at the Order to Show Cause hearing held on September 21, 2007.

13. By Order dated September 27, 2007, this Court (1) granted Plaintiff's Order to Show Cause; (2) ordered that Plaintiff procure an undertaking in the amount of \$30,000.00; and (3) ordered, upon procuring the undertaking, the seizure of Plaintiff's Collateral assets at 255 Central Park, West, New York, New York 10024.

14. As the docket reflects, Defendants have failed to file an answer or otherwise defend this action.

WHEREFORE, deponent respectfully requests the entry of a Certificate of Default by the



JOSEPH H. LEMKIN, ESQ.

Sworn to and Subscribed before me
This 25th day of February, 2008


Notary Public